

Minutes of the Kansas Sentencing Commission Meeting July 6, 2006

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on July 6, 2006, at 1:45 p.m., once a quorum had been met. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, Kansas.

Attendance

Members: Honorable Ernest L. Johnson, Chairman; Honorable Larry Solomon; Senator John Vratil; Senator Greta Goodwin; Representative Janice Pauls; Roger Werholtz, Secretary of Corrections; Paul Feleciano, Jr., designee, Kansas Parole Board; Chris Mechler, Office of Judicial Administration; Annie Grevas, Director of Community Corrections, 28th Judicial District; Reverend Junius Dotson, Public Member; Captain Dale Finger, Public Member. Staff: Patricia Biggs, Executive Director; Natalie Gibson, Staff Attorney; Kunlun Chang, Research Director; Fengfang Lu, Senior Research Analyst; Lora Moison, Research Analyst; Carrie Krusor, Research Data Entry; Brenda Harmon, Administrative Assistant; Janice Brasher, Grant Administrator; Marty Schmiedeler, Accountant.

Approval of the Minutes

The Chairman referred to the minutes of the May 12, 2006, Kansas Sentencing Commission meeting. A motion was made to approve the minutes by Ms. Chris Mechler and seconded by the Honorable Larry Solomon. The motion carried.

Journal Entry of Sentencing

Review and Consider approval of new Journal Entry of Sentencing form

Several Legislative acts have been passed which affect sentencing in general, and particularly the Journal Entry of Judgment and Presentence Investigation forms. A draft of the Kansas Sentencing Guidelines Journal Entry of Judgment form, showing the required changes in order to comply with Legislative changes, was provided to Commission members. Ms. Patricia Biggs discussed the following changes:

- Additions and deletions to “Special Rules” (including items # 21-23 for Animal Cruelty Act and # 24 for Aggravated Habitual Sex Offender)
- Additions related to the Child Sex Offenses, 2006 S Sub for HB 2576
- Whether or not the offense was determined by the court to have occurred with the use of a deadly weapon, 2006 SB 506 and K.S.A. 22-4902(a)(7)
- Sentencing structure was better clarified
- References back to the related statutes have been added throughout the Journal Entry form.

Ms. Biggs also mentioned a draft of the Instructions (for use with the Journal Entry of Judgment form), which have been coded to correspond with the Journal Entry.

Senator John Vratil made a motion to approve the proposed KSC Journal Entry of Judgment form, while giving Commission staff the authority to make any technical corrections that are necessary, including the substitution of statutory reference or any bill reference needed. Senator Greta Goodwin seconded the motion, and the motion carried.

Consider challenges presented – ‘other’ current forms, sync changes, statutory requirement, Automation: Prosecutor’s system, Full Court, KCJIS

Ms. Biggs discussed some challenges with the Journal Entry form from Sedgwick, Finney and other counties that do not conform to the approved KSC form, and problems due to the non-conformity. Samples of some of the Journal Entry forms that are non-compliant were provided to Commission members. Topics discussed included:

- In FY 2006, more than 17,000 Journal Entries have been processed so far by a staff of two.
- Variance in the Journal Entry form that is being used complicates the process.
- A recent backlog of more than 700 was caused in part by the length of time these take to enter.
- Without the data, prison population projections (bed capacity) and other related data analyses for these counties will be inaccurate.
- Sedgwick County wants to roll out their automated form to Johnson, Shawnee and Wyandotte Counties. This would substantially increase the use of non-compliant forms.
- Ms. Biggs has been working with the KCJIS project on trying to automate the Journal Entry, which ultimately is the goal. Depending on jurisdiction, this will take place at either the court level with full court system, or at the prosecutor’s level with the prosecutor’s system. This process is at least two years from completion.

Senator Vratil made a motion that the Kansas Sentencing Commission write a letter to the Supreme Court, explaining what is happening with the non-compliant Journal Entry of Judgment and related forms, including a listing of the efforts KSC has made over the last several years requesting compliance, with these efforts being unsuccessful. State the Legislative law that requires use of a form approved by the Kansas Sentencing Commission. State some courts are not complying with the state law. Ask the Supreme Court to assist us in doing our job by adopting a rule requiring the courts under their jurisdiction and administration to use the required form. Senator Goodwin seconded the motion.

Judge Solomon asked if the letter to the Supreme Court could explain the problem of non-compliance, and then the letter request an administrative conference to discuss the issue. Senator Vratil asked to amend the motion by sending the letter stating the discussion and the problem, but not propose a Supreme Court Rule and instead ask for a meeting with the OJA (Office of Judicial Administration) to discuss means of resolving this problem. The language in the letter will dictate that the Sentencing Commission believes this is a Court problem that needs to be resolved by the Court and not by the Legislature. Senator Goodwin seconded the amended motion. The motion carried.

Adult Prison Population Projections

Data:

Data is due from the Secretary of Corrections by July 11th, 2006, on which to base our prison population projections for the coming year. Their number at the close of Fiscal Year 2006 is 8,933, which left us 2.6% over projected. This is the highest variance from the projected monitoring numbers throughout the entire fiscal year period. This is on the heels of 85, 84 and this month 93 post release condition violators. This compares to 180 per month assumed in the current model. That is where the error is coming from, and what caused the over projection.

Consensus Meetings:

Consensus meetings are scheduled for July 21st and August 10th.

Present for Commission Approval:

Population projections will be ready for presentation to the Commission for approval or not at the next meeting, August 24th, 2006.

KSC Statutory Duty – reduce admissions, reduce length of stay

Handouts were provided to show how the major FY 2006 Felony Legislation will affect adult bed space implications. Ms. Biggs discussed each Bill and its effect.

Workshop Retreat

A retreat for Commission members will be held in Topeka at the Capital Plaza Hotel on October 5th-6th, 2006, to address the issue of K.S.A. 74-9101, which sets forth the statutory duties of the Kansas Sentencing Commission. Included in these duties is the responsibility to "...identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders..." when the commission's projections indicate that the inmate population will exceed available prison capacity within two years. We anticipate that this year's projections will present us with a situation where the Commission will be responsible for developing options as specified per statute. The Commission is required to make our report on these policy options to the Governor and the Joint Committee on Corrections and Juvenile Justice Oversight by November 1st.

NASC, Philadelphia, August 6-8, 2006

Ms. Biggs provided a Newsletter that NASC puts out on the Conference to be held August 6th-8th in Philadelphia. Three Commission members are interested in attending, which is our limit financially at this time.

Executive Summary for Senate Bill 123 Evaluation

Ms. Biggs received the Vera Institute of Justice SB 123 Evaluation about half an hour before today's meeting, which she provided copies of to Commission members. A few of the findings she highlighted included:

- The Program is functioning as designed
- The numbers came in lower than expected
- It is believed that many of the offenders are pleading down from manufacture or sales to be sentenced under SB 123, and that can have some long term indications in terms of individuals who are/or are not amenable to treatment
- They do note there is a significant resistance from Judicial factors
- Significant increase in the overall use of probation
- Cognitive behavioral approach was being well integrated, but there are still concerns about the level of services availability in isolated areas
- Inter agency collaboration is improving; more and new channels of communication with both SB 123 sentences as well as regular probation sentences
- A higher successful termination rate; lower incidents of revocation for violations of conditions in the drug possession group than other offenders
- Concerns about general availability of treatment in the western part of state; new treatment providers in this area have not yet materialized
- Only 60% of counselors and community corrections officers believed that SB 123 offenders are getting the treatment they need the most. Officers tend to believe more residential treatment is needed than outpatient treatment settings.

Next Meeting

The next Commission meeting is scheduled for Thursday, August 24, 2006, at 1:30 p.m. The meeting was adjourned.